IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 13TH DECEMBER 2007 / 22ND AGRAHAYANA 1929

WP(C).No. 36849 of 2007(J)

---

PETITIONER:

---

M/S. GENERAL MOTORS,
34/1845 A, EDAPPALLY, KOCHI-682 024,
REPRESENTED BY ITS PROPRIETRESS,
MEENAKSHI MARIAPPAN.

BY ADV. SRI.K.J.ABRAHAM

RESPONDENTS:

---

1. THE SALES TAX OFFICER,
1ST CIRCLE, KALAMASSERY.

2. THE DEPUTY COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES, ERNAKULAM.

3. THE INSPECTING ASST. COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES, ERNAKULAM.

BY GOVT. PLEADER SRI C.K.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

---

W.P.(C) 36849 of 2007

---

Dated: December 13, 2007

JUDGMENT

The challenge in this writ petition is against Ext.P6. Ext.P6 is an order that is passed by the Appellate Authority considering the application made by the petitioner for stay of recovery of the amount that is due. It is also seen that the petitioner had filed a writ petition in which Ext.P5 order was passed directing the Appellate Authority to pass orders and it is pursuant to that, that Ext.P6 order is passed.

2. Having gone through Ext.P6 order it is seen that the Appellate Authority has found that the petitioner has made out a prima facie case for a conditional stay and it is on that basis the conditional order has been passed to remit Rs.1,00,000/- each for each of the assessment years.

3. Learned counsel for the petitioner submits that on merits his case is that nothing will be payable as per the returns filed.

4. As at present I am not called upon to adjudicate the issues

in the appeal itself and that is a matter for the Appellate Authority. In this case, considering the prima facie case, the Appellate Authority has passed a conditional order of stay in exercise of its discretionary power and I am not satisfied that the petitioner has made out a case for interference with Ext.P6 order.

5. Therefore the writ petition is only to be dismissed and I do o. However, having regard to the request of the counsel for the petitioner for extension of time for remittance, I direct that the time specified by the Appellate Authority in Ext.P7 will stand extended by three weeks.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE

mt/-